means selected from the group consisting of a dry electrostatic color [colour] toner printer, an ink jet printer with liquid dye and [or] a thermotransfer color [colour] printer, all of which are digitally controlled.

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26. (Twice amended) A textile product on which a one- or multi-colored [coloured] pattern is attached by application from a transfer according to claim 1.

Remarks

Applicant thanks the Examiner for the care and time taken in consideration of the above-referenced patent application and claims. The claims have been amended to correct the minor errors noted by the Examiner, as well as to conform the claims more closely to customary U.S. practice. No new matter has been added as a result of these amendments.

The Examiner has noted that a brief description of the drawings is needed. Applicant has amended the specification accordingly.

The Examiner has rejected claims 4, 7, 9, 13-15 and 18-25 under 35 USC § 112, second paragraph, as being indefinite. Applicant respectfully traverses the rejection to the extent that it is maintained.

The Examiner has rejected claims 1, 4, 5, 13, 14 and 26 under 35 USC § 102(b) as being anticipated by Olsen, WO 92/07990. Applicant respectfully traverses the rejection to the extent that it is maintained.

The Examiner has rejected claim 6 under 35 USC § 103(a) as being unpatentable over Olsen, WO 92/07990. Applicant respectfully traverses the rejection to the extent that it is maintained.

Favorable reconsideration is respectfully requested.

Formal Rejection

Applicant has traversed the Examiner's rejection of claims 4, 7, 9, 13-15 and 18-25 under 35 USC § 112, second paragraph, as being indefinite. Applicant has amended the claims to address the issues raised by the Examiner, thereby rendering the rejection moot. In particular, Applicant notes that method claims 15 and 18-25 now appear to be free of rejection.

Favorable reconsideration is respectfully requested.

Art Rejections

Applicant has traversed the Examiner's rejection of claims 1, 4, 5, 13, 14 and 26 under 35 USC § 102(b) as being anticipated by Olsen, WO 92/07990. The Examiner has asserted that Olsen discloses all elements of the claimed invention. This is incorrect.

The claimed invention is directed to a transfer, and a method of making a transfer, capable of applying one- or multi-colored patterns to textiles under heat and pressure. The transfer has a carrier sheet having a non-binding surface and a one-or multi-colored pattern printed thereon using a digitally controlled color printer. The transfer also has a transparent or white-pigmented elastomer polymer layer that has a high plasticizing point printed configuratively on the pattern.

As described in the specification, the elastomer polymer layer is preferably a polyurethane (page 12, lines 32-34; page 13, lines 10-12). This is recited in claims 7-10 and 18-21. Further, the polymer layer is not heat activatable at the application temperature of the transfer (page 13, lines 5-7).

Olsen does not disclose a transfer with the claimed elastomer polymer layer with high plasticizing point, recited in claim 1, or a method of making a transfer with an elastomer polymer layer having a high plasticizing point on top of the pattern, recited in claim 15. Olsen discloses a transfer with a liner 1, a polyethylene layer 2, a color layer 5, an extender 6, and an elastomer layer 7. As disclosed, the extender 6 corresponds to the colors in the color layer 5, but without pigment (page 19, lines 16-19). Olsen describes one acceptable color series as Nylotex NX and the extender 6 is also described as being formed from Nylotex NX (page 19, lines 7-8, 17). Thus, the color layer 5 and the extender 6 are formed from essentially the same material. Further, the elastomer material 7 that is applied onto the color layer 5 or extender 6 while these layers are still wet is fused into the color layer 5 and extender 6 (page 9, lines 18-21).

It is therefore apparent that the extender 6 in Olsen is an ink similar to the ink used for the color layer 5. The Examiner relies upon the disclosure in Olsen concerning the alleged use of a color copier to apply the coatings (page 15, lines 33-35). Toners used in digital color printers have a low melting point (typically, approximately 100 °C) in order to be melted and fixed by

passage of hot rollers for a fraction of a second (page 12, lines 27-32 of Applicant's specification). To permit Applicant's color layer to withstand the high temperatures associated with application, Applicant provides the elastomer polymer layer of high plasticizing point (page 12, lines 31-32; page 13, lines 5-7). However, in Olsen, since the extender 6 is of the same material as the color layer 5, the extender 6 has a low melting point like the layer 5. Thus, the extender 6 is not an elastomer polymer layer having a high plasticizing point as claimed.

The Examiner's reference to the support sheet of Olsen comprising Kraft paper and a thermoplastic layer of polyethylene is noted. The polyethylene layer in Olsen is not equivalent to the claimed elastomer polymer layer. As claimed, the colored pattern is printed on the carrier sheet and the elastomer polymer layer is printed on the pattern. Thus, the claimed invention requires the elastomer polymer layer to be on the side of the colored pattern opposite the carrier sheet. In Olsen, the Kraft paper and polyethylene layer are on the same side of the color layer 5. They are not on opposite sides of the color layer, as required by the claims. The Examiner also references a polyester based glue layer on top of the color layer of Olsen. Regardless of whether Olsen teaches such a layer, which Applicant is not conceding, the claims recite an elastomer polymer layer **and** a heat-activatable thermoplastic polymeric glue layer or a heat-activatable hot melt granulate on the elastomer layer. A glue layer by itself would not anticipate the claims.

For the above reasons, the claims are not anticipated by Olsen and withdrawal of the rejection is requested.

Applicant has traversed the Examiner's rejection of claim 6 under 35 USC § 103(a) as being unpatentable over Olsen, WO 92/07990. Olsen is distinguished above as failing to anticipate the claimed invention. Claim 6 is allowable for the reasons given for claim 1 and need not be further distinguished at this time. Applicant is not conceding the correctness of the rejection, and additional arguments and/or evidence may be submitted at a later date specifically rebutting this rejection.

Conclusion

With these amendments Applicant believes that the application is in condition for allowance. Favorable consideration is respectfully requested. If any further questions arise, the Examiner is urged to contact Applicants' representative at the number listed below.

Respectfully submitted,

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